

REMARKS

Favorable reconsideration of the present application is respectfully requested. Claims 1 – 17, 19-35, 37-41 and 52- 55 are currently pending. Claims 30 and 35 have been amended. Claims 36 and 42-51 have been canceled by this amendment. Claim 18 has been previously canceled. Claims 56 and 57 have been added to claim additional matter to which Applicant is entitled.

The Examiner's assertion that Diamond '907, and specifically elements "920A or 920B only, not both layers 920B and 920A" (emphasis added) show the "spraying a layer of an elastomeric material to form a blast resistant panel of a predetermined thickness in the range of about 100 mil to about 250 mil" is improper and without basis. Layers 920A and 920B are two separate layers that are required to make up the complete embodiment of the invention shown in FIG. 14 of Diamond '907. There is no teaching, suggestion or motivation in Diamond '907 that would lead one of skill in the art to deconstruct the invention in Diamond '907 as suggested by the Examiner. See, *Carston Manufacturing Co. v. Cleveland Golf Company*, 242 F.3rd 1376 (Fed Cir. 2001) – in holding an invention obvious in view of a combination of references, there must be some suggestion, motivation, or teaching in the prior art that would have lead a person of ordinary skill in the art to select the references and combine them in a way that would produce the claimed invention. In addition, by deconstructing the invention in Diamond '907 to use only one half of the invention as suggested by the Examiner, the Examiner has rendered the invention in Diamond '907 to be inoperative for its intended purpose, since the minimum required thickness for any embodiment of the invention in Diamond '907 is 0.5 inches or 500 mil, which is twice the thickness recited in Claim 1. "If proposed modification would render the prior art invention being modified unsatisfactory for its intended

purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2nd 900, 221 USPQ 1125 (Fed. Cir. 1984)” (MPEP § 2143.01).

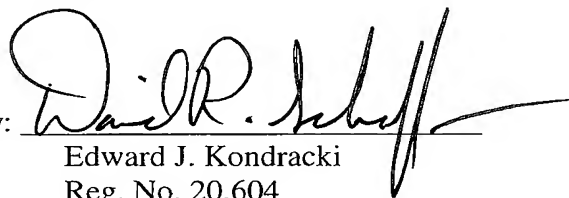
Therefore, the rejections of Claims 1-17, 19-35 and 31-55 is improper, and Applicant respectfully requests that they be withdrawn and a Notice of Allowance of all pending claims be issued.

Should the Examiner believe that any further action is necessary to place this application in better form for allowance, the Examiner is invited to contact Applicant's representative at the telephone number listed below.

The Commissioner is hereby authorized to charge to Deposit Account No. 50-1165 (T3572-908375US01) any fees under 37 C.F.R. §§ 1.16 and 1.17 that may be required by this paper and to credit any overpayment to that Account. If any extension of time is required in connection with the filing of this paper and has not been separately requested, such extension is hereby requested.

Respectfully submitted,

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